

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CARLOS MARIN, et al., *on behalf of themselves*
and all others similarly situated,

Plaintiffs,

ORDER

- against -

12 CV 5274 (ENV)

APPLE-METRO, INC., et al.,

Defendants.

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SHAUNTA DOVE, *on behalf of herself and all*
others similarly situated,

ORDER

Plaintiff,

13 CV 1417 (ENV)

- against -

APPLE-METRO, INC., et al.,

Defendants.

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On October 22, 2012, Carlos Marin, Kenny Lebron, and Martina Hanisch (the “Marin plaintiffs”), on behalf of themselves and all others similarly situated, filed a Complaint against Apple-Metro, Inc., a corporation consisting of Applebee’s Restaurants located in Manhattan, the Bronx, Brooklyn, Queens, Staten Island, Westchester and Rockland Counties (“Apple Metro”). (Docket No. 12 CV 5274). The Complaint also names as defendants the individual restaurant

branches,¹ as well as several individual defendants: Zane Tankel, Roy Raeburn, Kirk Samlal, Aubrey Daly, Roland Raymond, Derrick Palmer, Susy Quintero, and Chris Antoine (the “individual defendants”) (collectively, “defendants”). (Docket No. 12 CV 5274). On June 28, 2013, the Marin plaintiffs filed an amended Complaint, in which they alleged that defendants had violated the Fair Labor Standards Act, 29 U.S.C. §§ 201 *et seq.* (“FLSA”), and New York Labor Law §§ 195, 215, and 650 *et seq.* (“NYLL”), by altering the employees’ electronic time records, and failing to pay the non-managerial employees the proper minimum and overtime wages. (Marin Compl.² ¶¶ 1, 2).

On March 18, 2013, Shaunta Dove (“Dove plaintiff”), on behalf of herself and all others similarly situated, filed a Complaint in a related action against defendants. (Docket No. 13 CV 1417). On September 24, 2013, Dove filed an amended Complaint, in which she alleged that defendants failed to pay “tipped” hourly workers minimum and overtime wages by reducing their

¹117th Apple, LLC, 42nd Apple, LLC, AM NYCF, LLC, AT Apple, LLC, Airmont Apple, LLC, Astoria Apple, LLC, BTM Apple, LLC, Bay Plaza Apple, LLC, Bay Terrace Apple, LLC, Bed-Stuy Apple, LLC, Broadway Apple, LLC, Cortlandt Apple, LLC, Cross Country Apple, LLC, Crossroads Apple, LLC, EB Apple, LLC, Expressway Apple, LLC, Flatbush Apple, LLC, Fordham Apple, LLC, Fresh Meadows Apple, LLC, Harlem Apple, LLC, Hawthorne Apple, LLC, Jamaica Apple, LLC, Kisco Apple, LLC, Mamaroneck Apple, LLC, New Dorp Apple, LLC, New Rochelle Apple, LLC, Outerbridge Apple, LLC, Derrick Palmer, Port Chester Apple, LLC, Queens Center Apple, LLC, Rego Park Apple, LLC, Riverdale Apple, LLC, S.I. Apple, LLC, SVC Apple, LLC, Sheepshead Apple, LLC, Triangle Apple, LLC, and White Plains Apple, LLC.

²Citations to “Marin Compl.” refer to the Marin plaintiffs’ second amended Complaint, filed June 28, 2013.

tip credit, in violation of the FLSA and the NYLL. (Dove Compl.³ ¶¶ 1-3).

By Order dated July 28, 2014, the Court granted plaintiffs' request for conditional collective action certification and Ordered defendants to post copies of the Notice "in a conspicuous area of each of its restaurants."⁴ On January 26, 2015, after resolving defendants' motion to amend the Notice, the Court again Ordered defendants to post the Notice in their restaurants.

On April 15, 2015, plaintiffs filed a motion requesting a fifty day extension of the current notice period based on defendants' alleged failure to post the Notice in a conspicuous area of its restaurants. An in-person conference before the undersigned is scheduled for **April 23, 2015 at 11:30 a.m.** where the Court will hear testimony on this issue.

The Clerk is directed to send copies of this Order to the parties either electronically through the Electronic Case Filing (ECF) system or by mail.

SO ORDERED.

Dated: Brooklyn, New York
April 21, 2015

/s/ CHERYL POLLAK 4/21/2015

Cheryl L. Pollak
United States Magistrate Judge
Eastern District of New York

³Citations to "Dove Compl." refer to the Dove plaintiff's first amended Complaint, filed September 24, 2013.

⁴This Order was affirmed by the Honorable Eric N. Vitaliano on December 18, 2014.